

APPENDIX H: TAX ABATEMENT POLICY STATEMENT

City of Fort Worth **General Tax Abatement Policy** Effective June 15, 2004 through June 14, 2006

1. GENERAL PROVISIONS.

1.1. Purpose.

Chapter 312 of the Texas Tax Code allows, but does not obligate or require, the City to grant a tax abatement on the value added to a particular property on account of a specific development project that meets the eligibility requirements set forth in this Policy. In order for the City to participate in tax abatement, the City is required to establish guidelines and criteria governing tax abatement agreements. This Policy is intended to set forth those guidelines and criteria for persons or entities interested in receiving a tax abatement from the City. This Policy shall expire on June 14, 2006.

1.2. General Eligibility Criteria.

A tax abatement can only be granted to persons or entities eligible for tax abatement pursuant to Section 312.204(a) of the Texas Tax Code, which persons or entities as of the effective date of this Policy are (i) the owner of taxable real property located in a tax abatement reinvestment zone; or (ii) the owner of a leasehold interest in real property located in a tax abatement reinvestment zone. Although the City will consider all applications for tax abatement that meet the eligibility requirements set forth in this Policy, it is especially interested in development projects that:

- result in the creation of new full-time jobs for Fort Worth Residents and Central City Residents; and
- are located in the Central City; and
- result in development with little or no additional cost to the City; and
- have a positive impact on Fort Worth Companies and Fort Worth Certified M/WBE Companies.

1.3. General Exclusions and Limitations.

1.3.1. Lessees of Real Property.

A person or entity seeking tax abatement on real property that is leased from a third party should be advised that,

pursuant to state law, the City can only abate taxes on the increased value of the taxable leasehold interest in the real property, if any, and the increase in value of taxable improvements and tangible personal property located on the real property and subject to the leasehold interest, if any. Before applying for a tax abatement from the City, such persons or entities should seek professional and legal guidance, and may wish to consult with the appraisal district having jurisdiction over the property in question, as to whether their development projects will result in a taxable leasehold interest in the property and, if so, the anticipated value of that leasehold interest.

1.3.2. Property Located in Neighborhood Empowerment Zones (“NEZs”).

The City Council has designated certain distressed areas of the City needing affordable housing, economic development and expanded public services as NEZs. Notwithstanding anything that may be interpreted to the contrary, this Policy does not apply to property located in a NEZ. A person or entity seeking tax abatement on property owned or leased in a NEZ should refer to the NEZ Policy.

1.3.3. Property Located in Tax Increment Reinvestment Zones (“TIFs”).

The City Council has designated certain areas of the City as TIFs. This Policy does apply to property located in a TIF. However, a person or entity seeking tax abatement on property owned or leased in a TIF should be advised that state law requires a TIF’s board of directors and the governing bodies of all taxing jurisdictions contributing tax increment revenue to a TIF to approve a City tax abatement agreement on property located in that TIF before the agreement can take effect.

1.3.4. Property Located in Enterprise Zones.

The State of Texas has designated certain areas of the City with high unemployment as enterprise zones. Various economic development incentives are available to owners of property located in enterprise zones. In accordance with state law, all property located within an enterprise zone is automatically designated as a tax abatement reinvestment zone. However, the City typically designates individual tax abatement reinvestment zone overlays when it wishes to grant tax abatements on property located in an enterprise zone.

2. **DEFINITIONS.**

Capitalized terms used in this Policy but not defined elsewhere shall have the following meanings:

Abatement or Tax Abatement - A full or partial exemption from ad valorem taxes on eligible taxable real and personal property located in a Reinvestment Zone for a specified period on the difference between (i) the amount of increase in the appraised value (as reflected on the certified tax roll of the appropriate county appraisal district) resulting from improvements begun after the execution of a written Tax Abatement Agreement and (ii) the appraised value of such real estate prior to execution of a written Tax Abatement Agreement (as reflected on the most recent certified tax roll of the appropriate county appraisal district for the year prior to the date on which the Tax Abatement Agreement was executed).

Abatement Benefit Term – The period of time specified in a Tax Abatement Agreement, but not to exceed ten (10) years, that the recipient of a tax abatement may receive the Abatement.

Abatement Compliance Term – The period of time specified in a Tax Abatement Agreement during which the recipient of a tax abatement must comply with the provisions and conditions of the Tax Abatement Agreement and file an annual report with the City which outlines and documents the extent of the recipient's compliance with such provisions and conditions.

Capital Investment - Only real property improvements such as, without limitation, new facilities and structures, site improvements, facility expansion, and facility modernization. Capital Investment does NOT include (i) land acquisition costs; (ii) any improvements existing on the property prior to execution of a Tax Abatement Agreement; or (iii) personal property such as, without limitation, machinery, equipment, supplies and inventory.

Central City – The area within Loop 820 consisting of the following: all CDBG-eligible census block groups, all State-designated enterprise zones, and all census block groups that are contiguous by 75 percent or more of their perimeter to CDBG-eligible block groups or enterprise zones.

Central City Resident – An individual whose principle place of residence is at a location in the Central City.

Commercial/Industrial Development Project – A development project in which a facility or facilities will be constructed or renovated on property that is or meets the requirements to be zoned for commercial or industrial use pursuant to the City's Zoning Ordinance.

CDBG Eligible Area – Any census tract in which fifty-one percent (51%) or more

of the residents in that census tract have low to moderate incomes, as defined by the United States Department of Housing and Urban Development.

Fort Worth Certified M/WBE Company – A minority or woman-owned business that has a principal office located within the corporate limits of the City and has received certification as either a minority business enterprise (MBE) or a woman business enterprise (WBE) by the North Texas Central Regional Certification Agency (NCTRCA) or the Texas Department of Transportation (TxDOT), Highway Division.

Fort Worth Company – A business that has a principal office located within the corporate limits of the City.

Fort Worth Resident – An individual whose principal place of residence is at a location within the corporate limits of the City.

Mixed-Use Development Project – A development project in which a facility or facilities will be constructed or renovated such that (i) at least twenty percent (20%) of the total gross floor area will be used as residential space and (ii) at least ten percent (10%) of the total gross floor area will be used for office, restaurant, entertainment and/or retail sales and service space.

M/WBE Ordinance – City Ordinance No. 15530, as may subsequently be amended, or a successor ordinance thereto.

Reinvestment Zone – An area designated by the City as a tax abatement reinvestment zone in accordance with Chapter 312 of the Texas Tax Code.

Residential Development Project – A development project in which a facility or facilities will be constructed or renovated as multi-family living units on property that is or meets requirements to be zoned for multi-family or mixed-use pursuant to the City's Zoning Ordinance.

Supply and Service Expenses – Discretionary expenses incurred as part of normal business operations on the real property subject to tax abatement, such as, by way of example only, office supplies, janitorial supplies and professional services.

Tax Abatement Agreement – A written Agreement that the recipient of a tax abatement must enter into with the City and that outlines the specific terms and conditions pertaining to and governing the tax abatement.

3. **RESIDENTIAL DEVELOPMENT PROJECTS ELIGIBLE FOR TAX ABATEMENT.**

To be eligible for tax abatement under this Policy, a Residential Development Project must meet all of the criteria set forth in one of the following

paragraphs:

3.1. (i) Be located in the Central City; and (ii) Satisfy the Capital Investment and affordability criteria necessary for a Residential Development Project to be eligible for tax abatement under the NEZ Policy; and (iii) Meet all of the commitments set forth in Section 6 of this Policy (Standard Requirements for Residential Development Projects and Certain Commercial/ Industrial and Mixed-Use Development Projects); or

3.2. (i) Be located in a CDBG Eligible Area; and (ii) Have a capital investment of at least \$5 million; and (iii) Cause no greater than 50% of the units be reserved as affordable housing for persons with incomes at or below eighty percent (80%) of median family income based on family size (as established and defined by the United States Department of Housing and Urban Development); and (iv) Meet all of the commitments set forth in Section 6 of this Policy (Standard Requirements for Residential Development Projects and Certain Commercial /Industrial and Mixed-Use Development Projects); or

3.3. (i) Be located outside of the Central City; and (ii) Have a capital investment of at least \$5 million; and (iii) Cause no fewer than 20% of the units shall to be reserved as affordable housing for persons with incomes at or below eighty percent (80%) of median family income based on family size (as established and defined by the United States Department of Housing and Urban Development); and (iv) Meet all of the commitments set forth in Section 6 of this Policy (Standard Requirements for Residential Development Projects and Certain Commercial/ Industrial and Mixed-Use Development Projects).

In addition, an applicant for a Residential Development Project tax abatement that includes, in whole or in part, the renovation of one or more existing structures shall provide, as part of the applicant's Tax Abatement Application, a detailed description and the estimated costs of the renovations contemplated.

4. COMMERCIAL/INDUSTRIAL DEVELOPMENT PROJECTS ELIGIBLE FOR TAX ABATEMENT.

To be eligible for tax abatement under this Policy, a Commercial/Industrial Development Project must meet all of the criteria set forth in one of the following paragraphs:

4.1. (i) Have a minimum Capital Investment of \$500,000; and (ii) Be located in the Central City or on property immediately adjacent to the major thoroughfares which serve as boundaries to the Central City, or within a CDBG Eligible Area; and (iii) meet all of the commitments of Section 6 of this Policy (Standard Requirements for Residential Development Projects and Certain Commercial/Industrial and Mixed-Use Development Projects); or

4.2. (i) Have a minimum Capital Investment of \$10 million; and (ii) meet all of the commitments of Section 6 of this Policy (Standard Requirements for Residential Development Projects and Certain Commercial/Industrial and Mixed-Use Development Projects); or

4.3. (i) Have a minimum Capital Investment of \$100 million; and (ii) satisfy additional requirements that may be set forth by the City on a project-specific basis.

In addition, an applicant for tax abatement on a Commercial/Industrial Development Project that includes, in whole or in part, the renovation of one or more existing structures shall provide, as part of the applicant's Tax Abatement Application, a detailed description and the estimated costs of the renovations contemplated.

5. MIXED-USE DEVELOPMENT PROJECTS ELIGIBLE FOR TAX ABATEMENT.

To be eligible for tax abatement under this Policy, a Mixed-Use Development Project must meet all of the criteria set forth in one of the following paragraphs:

5.1. (i) Have a minimum Capital Investment of \$500,000; and (ii) Be located in the Central City or on property immediately adjacent to the major thoroughfares which serve as boundaries to the Central City, or within CDBG Eligible Area; and (iii) meet all of the commitments of Section 6 of this Policy (Standard Requirements for Residential and Mixed-Use Development Projects and Certain Commercial/Industrial Development Projects); or

5.2. (i) Have a minimum Capital Investment of \$10 million; and (ii) meet all of the commitments of Section 6 of this Policy (Standard Requirements for Residential and Mixed-Use Development Projects and Certain Commercial/ Industrial Development Projects); or

5.3. (i) Have a minimum Capital Investment of \$100 million; and (ii) consist of multiple land uses, whereby no single land use would comprise greater than 40% of the project's land area; and (iii) emphasize live/work/play opportunities with multi-modal access; and, (iv) satisfy additional requirements that may be set forth by the City on a project-specific basis.

In addition, an applicant for tax abatement on a Mixed-Use Development Project that includes, in whole or in part, the renovation of one or more existing structures shall provide, as part of the applicant's Tax Abatement Application, a detailed description and the estimated costs of the renovations contemplated.

6. STANDARD REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT PROJECTS AND CERTAIN COMMERCIAL/ INDUSTRIAL AND MIXED-USE DEVELOPMENT PROJECTS.

To be eligible for property tax abatement, a Residential Development Project meeting the requirements set forth in Sections 3.1, 3.2 or 3.3 of this Policy; a Commercial/Industrial Development Project meeting the requirements set forth in Sections 4.1 and 4.2 of this Policy; and a Mixed-Use Development Project meeting the requirements set forth in Sections 5.1 and 5.2 shall meet all of the following requirements:

6.1. Commit to provide full-time employment to a set number and/or a percentage of full-time jobs offered on the real property where the Development is located to Central City Residents, which commitment will be agreed upon and set forth in the Tax Abatement Agreement; and

6.2. Commit to provide full-time employment to a set number and/or a percentage of full-time jobs offered on the real property where the Development is located to Fort Worth Residents, which commitment will be agreed upon and set forth in the Tax Abatement Agreement; and

6.3. Commit to spend a set amount or percentage of total construction costs and annual Supply and Service Expenses with Fort Worth Companies, which commitment will be agreed upon and set forth in the Tax Abatement Agreement; and

6.4. For the purposes outlined in the City's M/WBE Ordinance, agree, as a base goal, to undertake a good faith effort to spend at least twenty-five percent (25%) of total construction costs and at least twenty-five percent (25%) of annual Supply and Service Expenses with Fort Worth Certified M/WBE Companies, which goal may be increased or decreased by the City, after consultation with the Minority and Women Business Enterprise Advisory Committee, considering all applicable factors with regard to the specific Development Project, including, but not limited to, capacity, quality and price, and otherwise in accordance with the process applicable pursuant to the City's M/WBE Ordinance; and

6.5. As part of the base goal established pursuant to Section 6.4 above, commit to spend a set amount or percentage of total construction costs and annual Supply and Service Expenses with Fort Worth Certified M/WBE Companies, which commitments will be agreed upon and set forth in the Tax Abatement Agreement and, if not met, will serve to reduce the value of Abatement in accordance with specific terms and conditions of the Tax Abatement Agreement; and

6.6. Commit to file a plan with the City as to how the goals and commitments for use of Fort Worth Certified M/WBE Companies will be attained and, in order to demonstrate compliance with that plan, (i) to file monthly reports with the City and the Minority and Women Business Enterprise Advisory Committee throughout the construction phase of any improvements required by the Tax Abatement Agreement reflecting then-current expenditures made with Fort Worth Certified M/WBE Companies, and (ii) from the start of the First Compliance Auditing Year (as defined in Section 8) until expiration of the Tax Abatement Agreement, to file quarterly reports with the City reflecting then-current expenditures made with Fort Worth Certified M/WBE Companies.

The City Council may, in its sole discretion, require a Commercial/Industrial Development Project meeting the criteria set forth in Section 4.3 of this Policy and a Mixed-Use Development Project meeting the criteria set forth in Section 5.3 of this Policy to satisfy some, all or none of the requirements set forth in this Section 6.

7. TAX ABATEMENT CALCULATION.

All Tax Abatement Agreements shall require the recipient to construct or cause construction of specific improvements on the real property that is subject to the abatement. Failure to construct these specific improvements at the minimum Capital Investment expenditure and by the deadline established in the Tax Abatement Agreement shall give the City the right to terminate the Tax Abatement Agreement. The amount of a particular tax abatement shall be negotiated on a case-by-case basis and specifically set forth in the Tax Abatement Agreement. The calculation of tax abatement for a Commercial/Industrial Project that meets the requirements of Section 4.3 of this Policy or for a Mixed-Use Development Project that meets the requirements of Section 5.3 of this Policy shall be negotiated on a case-by-case basis and governed solely by the terms and conditions of the Tax Abatement Agreement. The calculation of tax abatement for any other project shall be negotiated on a case-by-case basis, but shall be governed directly in accordance with the degree to which the recipient meets the four (4) commitments set forth in Sections 6.1, 6.2, 6.3 and 6.4 of this Policy, which will be outlined in the Tax Abatement Agreement. A Tax Abatement Agreement may establish a base abatement that is (i) reduced in accordance with the recipient's failure to meet one or more of such commitments or (ii) increased in accordance with the recipient's meeting and/or exceeding one or more of such commitments.

8. TAX ABATEMENT IMPLEMENTATION.

The term of a tax abatement shall be negotiated on a case-by-case basis and specified in the Tax Abatement Agreement. The City will audit and determine the recipient's compliance with the terms and conditions of the Tax Abatement Agreement for a full calendar year prior to the first year in which the tax abatement

is issued for the improvements required by the Tax Abatement Agreement for the real property subject to abatement or the following calendar year, as negotiated and set forth in the Tax Abatement Agreement. The first tax abatement will be available to the recipient for the tax year following the Compliance Auditing Year. In other words, the degree to which the recipient meets the commitments set forth in the Tax Abatement Agreement will determine the percentage of taxes abated for the following tax year. The City will continue to audit and determine the recipient's compliance with the terms and conditions of the Tax Abatement Agreement for each subsequent calendar year, which findings shall govern the percentage of taxes abated for the following tax year, until expiration of the Tax Abatement Agreement.

9. TAX ABATEMENT APPLICATION PROCEDURES.

Each tax abatement application shall be processed in accordance with the following standards and procedures:

9.1. Submission of Application.

If a given development project qualifies for tax abatement pursuant to the eligibility criteria detailed in Section 4, Section 5 or Section 6 of this Policy, as the case may be, an applicant for tax abatement must complete and submit a City of Fort Worth Tax Abatement Application (with required attachments) (the "**Application**"). An Application can be obtained from and should be submitted to the City's Economic and Community Development Department. In order to be complete, the Application must include documentation that there are no delinquent property taxes due for the property on which the development project is to occur.

9.2. Application Fee.

Upon submission of the Application, an applicant must also pay an application fee. This application fee shall be the lesser amount of (i) one percent (1%) of the proposed project's Capital Investment and value of personal property qualifying for Abatement or (ii) \$15,000 ("**Application Fee**"). Regardless of whether the City ultimately grants the applicant a Tax Abatement, if substantive construction on the project, as determined by the City in its sole and reasonable discretion, has been undertaken on the property specified in the application within one (1) year following the date of its submission, this Application Fee shall be credited to any permit, impact, inspection or other fee paid by the applicant and required by the City directly in connection with the proposed project. Otherwise, the Application Fee shall not be credited or refunded to any party for any reason.

9.3. Application Review and Evaluation.

The Economic and Community Development Department will review an Application for accuracy and completeness. Once complete, the Economic and Community Development Department will evaluate an Application based on the perceived merit and value of the project, including, without limitation, the following criteria:

- Types and number of new jobs created, including respective wage rates, and employee benefits packages such as health insurance, day care provisions, retirement packages, transportation assistance, employer-sponsored training and education, and any other benefits;
- Percentage of new jobs committed to Fort Worth Residents;
- Percentage of new jobs committed to Central City Residents;
- Percent of construction contracts committed to (i) Fort Worth Companies and (ii) Fort Worth Certified M/WBE Companies;
- Percentage of Supply and Service Contract expenses committed to (i) Fort Worth Companies and (ii) Fort Worth Certified M/WBE Companies;
- Financial viability of the project;
- The project's reasonably projected increase in the value of the tax base;
- Costs to the City (such as infrastructure participation, etc.);
- Remediation of an existing environmental problem on the real property;
- The gender, ethnic background and length of employment of each member of the applicant's board of directors, governing body or upper management, as requested by the City; and
- Other items that the City may determine to be relevant with respect to the project.

Based upon the outcome of the evaluation, the Economic and Community Development Office will present the Application to the City Council's Central City Revitalization and Economic Development Committee. In an extraordinary circumstance, the Economic and Community Development Department may elect to present the Application to the full City Council without initial input from the Central City Revitalization and Economic Development Committee.

9.4. Consideration by Council Committee.

The City Council's Central City Revitalization and Economic Development Committee will consider the Application in an open meeting or, if circumstances dictate and the law allows, a closed meeting. The Committee may either (i) recommend approval of the Application, in which case City staff will incorporate the terms of the Application into a Tax Abatement Agreement for subsequent consideration by the full City Council with the Central City Revitalization and Economic Development Committee's recommendation to approve the Agreement; (ii) request modifications to the Application, in which case Economic Development Office staff will discuss the suggested modifications with the applicant and, if the requested modifications are made, resubmit the modified Application to the Central City Revitalization and Economic Development Committee for consideration; or (iii) deny to recommend consideration of the Application by the full City Council.

9.5. Consideration by the City Council.

A Tax Abatement Agreement will only be considered by the City Council if the applicant has first executed the Tax Abatement Agreement. The City Council retains sole authority to approve or deny any Tax Abatement Agreement and is under no obligation to approve any Application or Tax Abatement Agreement.

10. GENERAL POLICIES AND REQUIREMENTS.

Notwithstanding anything that may be interpreted to the contrary herein, the following general terms and conditions shall govern this Policy:

10.1. A tax abatement shall not be granted for any development project in which a building permit application has been filed with the City's Development Department. In addition, the City will not abate taxes on the value of real or personal property for any period of time prior to the year of execution of a Tax Abatement Agreement with the City.

10.2. The applicant for a tax abatement must provide evidence to the City that demonstrates that a tax abatement is necessary for the financial viability

of the development project proposed.

10.3. In accordance with state law, the City will not abate taxes levied on inventory, supplies or the existing tax base.

10.4. An applicant for tax abatement shall provide wage rates, employee benefit information for all positions of employment to be located in any facility covered by the Application.

10.5. Unless otherwise specified in the Tax Abatement Agreement, the amount of real property taxes to be abated in a given year shall not exceed one hundred fifty percent (150%) of the amount of the minimum Capital Investment expenditure required by the Tax Abatement Agreement for improvements to the real property subject to abatement multiplied by the City's tax rate in effect for that same year, and the amount of personal property taxes to be abated in a given year shall not exceed one hundred fifty percent (150%) of the minimum value of personal property required by the Tax Abatement Agreement to be located on the real property, if any, subject to abatement multiplied by the City's tax rate in effect for that same year.

10.6. The owner of real property for which a Tax Abatement has been granted shall properly maintain the property to assure the long-term economic viability of the project. In addition, if a citation or citations for City Code violations are issued against a project while a Tax Abatement Agreement is in effect, the amount of the tax abatement benefit will be subject to reduction, as provided in the Tax Abatement Agreement.

10.7. If the recipient of a tax abatement breaches any of the terms or conditions of the Tax Abatement Agreement and fails to cure such breach in accordance with the Tax Abatement Agreement, the City shall have the right to terminate the Tax Abatement Agreement. In this event, the recipient will be required to pay the City any property taxes that were abated pursuant to the Tax Abatement Agreement prior to its termination.

10.8. As part of the consideration under all Tax Abatement Agreements, the City shall have, without limitation, the right to (i) review and verify the applicant's financial statements and records related to the development project and the abatement in each year during the term of the Tax Abatement Agreement prior to the granting of a tax abatement in any given year and (ii) conduct an on-site inspection of the development project in each year during the term of the Tax Abatement to verify compliance with the terms and conditions of the Tax Abatement Agreement. Any incidents of non-compliance will be reported to all taxing units with jurisdiction over the real property subject to abatement.

10.9. The recipient of a tax abatement may not sell, assign, transfer or otherwise convey its rights under a Tax Abatement Agreement unless otherwise specified in the Tax Abatement Agreement. A sale, assignment, lease, transfer or conveyance of the real property that is subject to the abatement and which is not permitted by the Tax Abatement Agreement shall constitute a breach of the Tax Abatement Agreement and may result in termination of the Tax Abatement Agreement and recapture of any taxes abated after the date on which the breach occurred.

For additional information about this Tax Abatement Policy, contact the City of Fort Worth's Economic & Community Development Department using the information below:

City of Fort Worth
Economic & Community Development Department
1000 Throckmorton Street
Fort Worth, Texas 76102
(817) 392-6103
<http://fortworthgov.org/ecodev/>

